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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,850	08/22/2003	Uwe Mellenthin	H01.2B-11123-US01	1502
490	7590	03/06/2006	EXAMINER	
VIDAS, ARRETT & STEINKRAUS, P.A. 6109 BLUE CIRCLE DRIVE SUITE 2000 MINNETONKA, MN 55343-9185			DAYE, CHELCIE L	
			ART UNIT	PAPER NUMBER
			2161	

DATE MAILED: 03/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/646,850	MELLENTHIN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Chelcie Daye	2161	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 June 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/3/2003</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. This action is issued in response to Application filed on August 22, 2003.
2. Claims 1-20 are pending.

***Priority***

3. Should applicant desire to obtain the benefit of foreign priority under 35 U.S.C. 119(a)-(d) prior to declaration of an interference, a translation of the foreign application should be submitted under 37 CFR 1.55 in reply to this action.

***Information Disclosure Statement***

4. The information disclosure statement filed October 3, 2003 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the documents have not been translated. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

### ***Drawings***

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the specification: Fig.1, item 6. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.

Art Unit: 2161

- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Examiner calls attention to alphabets (g), (h), and (i). Examiner is unsure if "Brief description of the invention", within said application corresponds to the summary of the invention (g). If the "brief description of the invention" does correspond to the summary, applicant should keep in mind that the "Summary" is just that, a summary and the detailed description should be categorized under the correct heading. Also, applicant fails to have appropriate labels for a "brief summary of the invention" and a "brief description of the drawings".

### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 2161

7. Claims 1,3, and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the production process" in the second line of claim 1, examiner is unsure as to what "production process" applicant is referring to, since there is not prior mention of such a process. As a result, there is insufficient antecedent basis for this limitation in the claim.

Claim 3 recites the limitation "the assembly process" in the second line of claim 3, examiner is unsure as to what "assembly process" applicant is referring to, since there is not prior mention of such a process. As a result, there is insufficient antecedent basis for this limitation in the claim.

Claim 18 recites the limitation "the plastic casing" in the second and third lines of claim 18, examiner is unsure as to what "plastic casing" applicant is referring to, since there is not prior mention of such. As a result, there is insufficient antecedent basis for this limitation in the claim.

8. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "if" in claim 1 is a relative term which renders the claim indefinite. The term "if" is considered alternative language, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would

Art Unit: 2161

not be reasonably apprised of the scope of the invention. Due to the language of the above stated claims, Examiner is unsure of what the outcome would be if the statement were not applied. Therefore, the above stated claims will be examined without giving weight to the term "if".

9. Claims 1 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 on lines 7 and 9 and claim 14 lines 4-5 recite "a writing device" and "a reading device", examiner is unclear as to whether applicant is referring to a different reading and writing device or if the devices are the same throughout. To further prosecution, examiner will give the claims their broadest reasonable interpretation.

### ***Claim Rejections - 35 USC § 101***

10. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-20 are rejected under 35 U.S.C. 101 because the claimed invention lacks patentability utility.

The basis of this rejection is set forth in a test of whether the invention is categorized as a process, machine, manufacture or composition of matter and if the invention produces a useful, concrete and tangible result. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) are found to be non-statutory



Art Unit: 2161

subject matter. For a method claim to pass muster, the recited process must produce a useful, concrete and tangible result.

In the present case, claims 1-20 recite a method for handling data of a proportioning device, where the proportioning device has means from a writing device and a reading device. However, the method fails to produce a tangible and useful result from the stored data.

To expedite a complete examination of the instant application, the claims rejected under 35 U.S.C. 101 (lack of utility) above are further rejected as set forth below in anticipation of applicant amending these claims to place them within the four statutory categories of invention with utility.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. **Claims 1-5,7-8, and 10-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Catan (US Patent Application No. 20020143860) filed on March 31, 2001, in view of Curry (US Patent No. 6,814,293) filed on April 17, 2001.**



Regarding Claims 1, Catan disclose a method for handling data of a proportioning device wherein:

the proportioning device ([0058], lines 1-3, Catan)<sup>1</sup>, in the production process ([0064], lines 1-5, Catan), is provided with at least one transponder ([0058], lines 5-7, Catan) into which data can be contactlessly stored by means of a writing device ([0060], lines 12-20, Catan)<sup>2</sup> and from which data can be contactlessly read out by means of a reading device ([0059], lines 1-3, Catan)<sup>3</sup>; and

production-related specific data of the proportioning device ([0063], lines 1-7, Catan)<sup>4</sup>, is stored, in the production process ([0064], lines 1-5, Catan), into the transponder by means of a writing device ([0060], lines 12-20, Catan).

However, Catan does not explicitly disclose applying an application-related specific data of the proportioning device. On the other hand, Curry discloses applying an application-related specific data of the proportioning device (column 17, lines 2-7, Curry). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Curry's teachings into the Catan proportioning device. Catan and Curry are analogous art because they are from the same field of endeavor of establishing a relationship among data and

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<sup>1</sup> Examiner Notes: The "MRL" device corresponds to the proportioning device, because the MRL device houses and performs the same functions as those outlined for the proportioning device (i.e. a transponder which stores data by a writing device and reads data by a reading device, contactlessly, See Fig.1).

<sup>2</sup> Examiner Notes: The "computer" corresponds to the writing device. Also, the act of contactlessly storing data is represented by a wireless connection.

<sup>3</sup> Examiner Notes: The "portable reader" corresponds to the reading device. Also, the act of contactlessly reading is done by wireless links.

<sup>4</sup> Examiner Notes: Some examples of production-related specific data are tickets, movie shows, and airlines.

managing it with frequency (i.e. transponders). A skilled artisan would have been motivated to combine, as suggested by Curry at column 17, lines 40-46, in order to authorize the system to communicate data with other components such as networks, modems, and interfaces. By applying this information this allows the device to be self-contained ensuring that the needed data will be available with more ease.

Regarding Claim 2, the combination of Catan in view of Curry, disclose the method wherein the proportioning device is provided with a passive transponder (column 10, lines 64-67, Curry)<sup>5</sup>.

Regarding Claim 3, the combination of Catan in view of Curry, disclose the method wherein a product component, which is at the beginning of the assembly process is provided with the transponder ([0088], lines 1-6, Catan)<sup>6</sup>.

Regarding Claim 4, the combination of Catan in view of Curry, disclose the method wherein the transponder is encapsulated in the proportioning device ([0061], lines 1-4, Catan)<sup>7</sup>.

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<sup>5</sup> Examiner Notes: The use of a battery for energy storage is acceptable, but the battery can also be replaced with capacitor, which is inductively charged (i.e. passive).

<sup>6</sup> Examiner Notes: "Components of the resource retrieval technology" corresponds to the product component, and the assembly process is represented by the "using the context to filter a large number of options down" (which is gathering the context together and organizing them downward). Lastly, by filtering the context downward, that means the process starts from the top (i.e. beginning) to the bottom.

Regarding Claim 5, the combination of Catan in view of Curry, disclose the method wherein an article number and/or a serial number of the proportioning device (column 12, lines 59-61, Curry) and/or a production order number and/or a batch number is/are stored into the transponder as production-related specific data ([0063], lines 1-7, Catan).

Regarding Claim 7, the combination of Catan in view of Curry, disclose the method wherein sales data is stored (column 7, lines 29-31, Curry) into the transponder as application-related specific data (column 17, lines 2-7, Curry).

Regarding Claim 8, the combination of Catan in view of Curry, disclose the method wherein inventory data of the user is stored (column 7, lines 29-31, Curry) into the transponder as application-related specific data (column 17, lines 2-7, Curry).

Regarding Claim 10, the combination of Catan in view of Curry, disclose the method wherein usage data is stored (column 14, lines 36-43, Curry) into the transponder as application-related specific data (column 17, lines 2-7, Curry).

Regarding Claim 11, the combination of Catan in view of Curry, disclose the method wherein maintenance and/or repair data is stored (column 20, lines

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<sup>7</sup> Examiner Notes: "Affixed" corresponds to encapsulated.

36-39, Curry) into the transponder as application-related specific data (column 17, lines 2-7, Curry).

Regarding Claim 12, the combination of Catan in view of Curry, disclose the method wherein the production-related specific data is stored to be fully or partially invariable into the transponder ([0112], lines 1-4, Catan)<sup>8</sup>.

Regarding Claim 13, the combination of Catan in view of Curry, disclose the method wherein the application-related specific data is stored to be fully or partially variable into the transponder (column 17, lines 30-34, Curry)<sup>9</sup>.

Regarding Claim 14, the combination of Catan in view of Curry, disclose the method wherein the production-related specific data stored in the transponder are read out fully or partially in the production process and/or during application and/or the application-related specific data stored in the transponder are read out fully or partially during application, by means of a reading device.

Regarding Claim 15, the combination of Catan in view of Curry, disclose a proportioning device suited for performing the method, with a transponder ([0058], lines 5-7, Catan) into which production-related specific data ([0063], lines 1-7, Catan) and application-related specific data of the proportioning device

Art Unit: 2161

(column 17, lines 2-7, Curry) can be stored ([0060], lines 12-20, Catan) and from which said data can be read out ([0059], lines 1-3, Catan).

Regarding Claim 16, the combination of Catan in view of Curry, disclose the proportioning device wherein the transponder is a passive transponder (column 10, lines 64-67, Curry).

Regarding Claim 17, the combination of Catan in view of Curry, disclose the proportioning device wherein the transponder is encapsulated in a casing of the proportioning device ([0061], lines 3-4, Catan).

Regarding Claim 18, the combination of Catan in view of Curry, disclose the proportioning device wherein the transponder is disposed inside the casing of the proportioning device or is injected into the plastic casing of the proportioning device (column 13, lines 54-56, Curry)<sup>10</sup>.

Regarding Claim 19, the combination of Catan in view of Curry, disclose the proportioning device wherein the production-related specific data can be stored to be fully or partially invariable in the transponder ([0112], lines 1-4, Catan).

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<sup>8</sup> Examiner Notes: By allowing the data to be generated invariably, at the least coincides with the partial invariability.

<sup>9</sup> Examiner Notes: By allowing the applications to interchange makes them variable.

<sup>10</sup> Examiner Notes: "Includes" corresponds to injected.

Regarding Claim 20, the combination of Catan in view of Curry, disclose the proportioning device wherein the application-related specific data can be stored to be fully or partially variable in the transponder (column 17, lines 30-34, Curry).

**13. Claims 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Catan (US Patent Application No. 20020143860) filed on March 31, 2001, in view of Curry (US Patent No. 6,814,293) filed on April 17, 2001 as applied to claims 1-5,7-8, and 10-20 above, and further in view of Lee (US Patent No. 5,493,304) filed on September 29, 1994.**

Regarding Claim 6, the combination of Catan in view of Curry, disclose the method of storing production-related specific data ([0063], lines 1-7, Catan). However, Catan in view of Curry, do not explicitly disclose the data being initial calibration. On the other hand, Lee discloses disclosing the data being initial calibration (column 6, lines 10-15, Lee)<sup>11</sup>. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Lee's calibration system into the Catan in view of Curry proportioning device. A skilled artisan would have been motivated to combine, as suggested by Lee at column 8, lines

Art Unit: 2161

60-67, in order to have a significant impact on the testing of frequencies as well as the ability to achieve non-evasive testing with transmission technology in order to result in a cost effective technique.

Regarding Claim 9, the combination of Catan in view of Curry, and further in view of Lee, disclose the method wherein calibration data of the user is stored (column 6, lines 30-41, Lee) into the transponder as application-related specific data (column 17, lines 2-7, Curry).

### ***Points of Contact***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chelcie Daye whose telephone number is 571-272-3891. The examiner can normally be reached on M-F, 7:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 571-272-4023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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<sup>11</sup> Examiner Notes: The "input pulse signal" occurs at the beginning of the test, which is applied to



Art Unit: 2161

published applications may be obtained from either Private PAIR or Public PAIR.

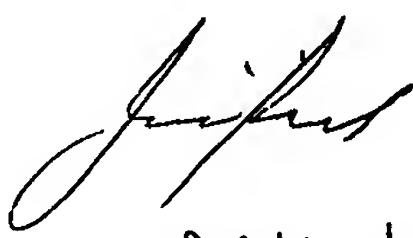
Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Chelcie Daye  
Patent Examiner  
Technology Center 2100  
February 24, 2006

  
Sana ALHashemi

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calibrate the time, which corresponds to the initial calibration.